

Original Submission May 18, 2001

Revised December 4, 2001

Revised March 1, 2002

Revised April 1, 2002

**BROOKSIDE FARM**

**PRD REVISED REZONING PROFFERS**

Fauquier Lakes Limited Partnership, the sole owner of the property and Applicant in the original Waterfield rezoning application (hereinafter "**BROOKSIDE FARM PRD**" or "**The Applicant**"), hereby proffers that in the event these existing proffers (the "Existing Proffers") applicable to the subject property, which was rezoned by the Fauquier County Board of Supervisors (hereinafter referred to as the "COUNTY" or "BOARD") in case number RZ 96-S-05, to a PRD district, are revised as proffered herein (hereinafter "Revised Proffers"), then the development of the property shall be in substantial conformance with these Revised Proffers. Uses and densities shall be set forth in these Revised Proffers, those Waivers, Modifications and Exceptions set forth in the Compilation of Requested Zoning Ordinance and Subdivision Ordinance Waiver Modifications and Exceptions dated March 26, 2002, which have been or are hereby approved by the Board of Supervisors, and also in substantial conformance with the Concept Development Plan dated May 18, as revised December 4, 2001, March 1, 2002, and April 1, 2002 as prepared by The Engineering Groupe, Inc. (the "**Concept Development Plan**" or **CDP**) and with the following conditions, pursuant to Section 15.2-2286 of the 1950 Code of Virginia, as amended, and Article 4, Sections 4-101 through 4-115, inclusive, of the Zoning Ordinance of Fauquier County, Virginia, and unless modified herein, shall be in accordance with all applicable provisions of the Zoning, Subdivision, and other development Ordinances. These proffers include the dedication of real property and are thus subject to the conditions set forth in Virginia Code, Section 15.2-2298 B.

- 1) The Brookside Farm Concept Development Plan dated May 18, 2001 most recently revised and stamped April 1, 2002, as prepared by The Engineering Groupe, Inc. as referred to in these Revised Proffers consists only of:

Sheet 1	Land Bays
Sheet 2	Open Space / Wetlands and Landscaping
Sheet 3	Utility and BMP Location Plan
Sheet 4	Boundary / Parcel Identification Plan

Sheet 5            Pedestrian Access Plan  
Sheet 6&7        Architectural Renderings

Where the Revised Proffers and Concept Development Plan are not in agreement, the more specific wording of the Revised Proffer statement shall prevail.

The adjacent R-1 property owners, set forth in Appendix “C” (hereinafter the “Adjacent Owners”), voluntarily agree to and join in certain aspects of these Revised Proffers pursuant to Virginia Code Section 15.2-2298 in order to schedule completion of roads and other facilities needed as a result of the proffer amendment and the Entire Project (as defined below). BROOKSIDE FARM PRD and the Adjacent Owners have filed a Preliminary Subdivision Plat, last Revised January 30, 2002, along with the requests for Special Exceptions and a Comprehensive Plan Amendment for additional properties identified by PIN# on “Attachment C” which properties with BROOKSIDE FARM PRD are hereafter referred to as “the Entire Project”, which plat and applications are to be considered contemporaneously with these Revised Proffers by the Planning Commission and the Board of Supervisors. These Revised Proffers shall not be effective unless contemporaneously with the adoption and approval of these Proffers the Board adopts and approves, with conditions acceptable to Applicant, the following applications:

CPA00-S-05 (The Comprehensive Plan Amendment)  
SE01-S-14    (Open Space Waiver)  
SE01-S-15    (Flood Plain Crossing)  
SE01-S-16    (Utility Structures)  
PP01-S-08    (Preliminary Plat)

These Revised Proffers change the name of the PRD portion of the project from Waterfield to BROOKSIDE FARM PRD.

**I.     LAND USE**

- A.     Unless modified by this Revised Proffer statement, the development of the BROOKSIDE FARM PRD shall be in accordance with the PRD district regulations, the proffers contained herein, and any waivers, modifications and exceptions which may have been or will be granted by the Board of Supervisors in accordance with the terms of the Fauquier County Zoning Ordinance, pursuant to that document entitled “BROOKSIDE FARM

PRD: Compilation of Requested Zoning Ordinance and Subdivision Ordinance Waivers, Modifications and Exceptions,” dated April 30, 2001, as revised December 4, 2001, March 1, 2002, and last revised April 1, 2002, which shall, upon approval be deemed proffers hereunder, and in substantial conformance with the Concept Development Plan.

- B. All dwelling units at BROOKSIDE FARM PRD shall be Single Family Detached Units. The total number of dwelling units at buildout on BROOKSIDE FARM PRD shall not exceed 601 single family dwelling units for an average density at BROOKSIDE FARM PRD of less than 1.36 dwelling units per acre (du./ac.) overall.
- C. The Village Center may contain up to 55,000 square feet of commercial use.
- D. All prepared single family lots abutting the outside boundary of BROOKSIDE FARM PRD directly contiguous to the Existing Residential Subdivisions lots of Lakewood, Waters Edge, Broken Hills Estates, Grapewood Estates, Lakeway (the division including Dogwood Drive and Holly Street) and the three lots at the end of Shepherdstown Road near Lake Brittle Road (the “Existing Residential Subdivisions”) as identified on the Concept Development Plan shall have a minimum lot size of 20,000 sq. ft., except those lots bordering Lake Drive in Land Bays J and O which shall have a minimum lot size of 30,000 sq. ft. In addition the perimeter of BROOKSIDE FARM PRD shall have a 50 foot wide open space buffer between BROOKSIDE FARM PRD lots and adjacent existing residential subdivisions lots. Said buffers are to be kept in a natural or improved natural state and may not contain any type of structure of whatsoever kind or type. The natural state open space restriction shall be enforced and managed by the Homeowners Association through its covenants, conditions and restrictions. The County shall be granted reasonable access for inspection and the right to enforce this particular covenant against the Homeowners Association for its failure to enforce the open space buffer restrictions. The 30,000 sq. ft. lots on Lake Drive shall adjoin a 50' buffer which may contain a public trail. The lots will also have a 50' rear set back from the buffer on Lake Drive. No lots will have driveways that enter on Lake Drive. In order to conserve the existing black board fence, trademark of Brookfield Farm, those lots that back up to Lake Drive at the existing fence, shall be designed to have a 50' HOA buffer and 50' structure set back from rear property line. The balance of perimeter lots on the PRD may be designed with 50' HOA owned buffer (as shown on sheet 2 or LDP ) with the actual

design to be determined at final plat stage of engineering.

## **II. DEVELOPMENT PHASING**

A. BROOKSIDE FARM PRD and the Entire Project shall be developed in accordance with these proffers and schedules set forth hereafter. Sewer tap (Equivalent Meter Unit or EMU) limitations contained in the schedule set forth in section V.A. shall be cumulative such that the number of units authorized but not constructed may be added onto the number of units permitted in subsequent years of the schedule.

### **B. BROOKSIDE FARM PRD Facilities**

The following uses and improvements shall be provided in accord with the following schedule:

1. Prior to the issuance of the 50<sup>th</sup> single family lot occupancy permit for the BROOKSIDE FARM PRD project for land bays E & F, BROOKSIDE FARM PRD shall construct a neighborhood play area in said land bays.
2. Prior to the issuance of the 100<sup>th</sup> single family lot occupancy permit for the BROOKSIDE FARM PRD project, BROOKSIDE FARM PRD shall construct one soccer field. Said soccer field shall be owned, controlled and maintained by the HOA.
3. For each single family occupancy permit after issuance of the 179<sup>th</sup> single family occupancy permit, on BROOKSIDE FARM PRD, BROOKSIDE FARM PRD shall make a cash contribution of \$3,500.00 to the County for school or other public capital facilities; payable at issuance of occupancy permits.
4. For each single family occupancy permit after issuance of the 179<sup>th</sup> occupancy permit on BROOKSIDE FARM PRD, BROOKSIDE FARM PRD shall make a cash contribution of \$50.00 per lot to the County for

Fire & Rescue Facilities. This contribution shall be paid annually to the County; however, this obligation will terminate when the County has established paid Fire & Rescue Services servicing the New Baltimore Service District.

5. Prior to the issuance of the 376<sup>th</sup> single family lot occupancy permit for BROOKSIDE FARM PRD, BROOKSIDE FARM PRD shall construct an outdoor multi-purpose facility for recreational use at the proposed VILLAGE CENTER. Said facility shall be owned, controlled and maintained by the HOA.
6. Prior to the issuance of the 450<sup>th</sup> single family lot occupancy permit for BROOKSIDE FARM PRD, BROOKSIDE FARM PRD shall make available without cost to the recipient sufficient land area as set forth hereafter, subject to BROOKSIDE FARM PRD's discretion as to the identity of the recipient, and the exact size and location for each use as described hereinafter. These sites may be located off of BROOKSIDE FARM PRD on adjacent land.
  - a. a library or other public use site, of approximately 4 acres.
  - b. a recreational baseball facility and other recreational facilities, of approximately 15 acres.
  - c. such other public or quasi-public uses as hereafter may be agreed upon by BROOKSIDE FARM PRD and the Director of Community Development.

**C. Entire Project Facilities**

1. Prior to the issuance of the 600<sup>th</sup> single family lot occupancy permit for the Entire Project, BROOKSIDE FARM PRD shall construct a Community Pool Center, including a swimming pool, associated with the VILLAGE CENTER. Said facility shall be owned, controlled and maintained by the HOA.

2. The Entire Project shall use its reasonable efforts to route construction traffic to the various sites within the project along roads which will have the least impact upon Existing Residential Communities. Where practical, all heavy equipment shall be brought to the site through the adjoining VHEDA property, a new Route 602 connection, or from Route 676 via Route 605.

### **III. TRANSPORTATION IMPROVEMENTS**

#### **A. Off Site Road Improvements**

1. The Applicant and Adjacent Owners proffer \$1,000 for each new, sewer, single-family residential unit and \$0.50 per square foot of commercial space constructed on the Entire Project. The proffered funds are for improvements to off site roads and intersections as determined by the County, which are impacted by the Entire Project. The collected funds will be placed into a “Brookside Transportation Escrow Fund”, with the escrow agent selected by Fauquier County and paid from contributions to the fund. Fauquier County and VDOT will jointly manage the fund. Fauquier County will collect the Brookside Transportation Escrow Fund contributions at the time of Building Permit issuance for each sewer lot.

The escrow account, created for cash contributions for new sewer construction as contemplated herein, shall be maintained as an interest-bearing account, in one or more federally insured institutions. The escrow agent shall deliver the escrowed funds to VDOT or Fauquier County upon the expiration of five (5) business days after VDOT and County certification to the escrow agent that either is entitled to payment of the escrowed funds in accordance with the terms of this proffer statement. The certification shall specify the grounds upon which it asserts such entitlement and shall have a section for agreement by the non-receiving party. A copy of said certification would also be delivered to the Applicants.

2. The Applicant further agrees to establish a working group consisting of itself, the County staff, VDOT staff and the Escrow Agent to co-ordinate the timing and project selection for the off-site improvements. If County requests, the Applicant or its assignee agrees to act as project manager, without profit, or liability to manage any such improvements at actual cost. The cost of such improvement shall be paid

directly from the fund.

3. The Applicant shall bear responsibility to improve Route 793, Shepherdstown Rd. (as set forth in III., B.1. hereafter) and the portion of the Brookside Parkway to Kennedy Rd. on VHEDA property as hereafter described. These costs shall not in any way be part of the Escrow Funds responsibility.

**B. Dedication and Construction of the Brookside Parkway and Sheperdstown Road**  
**(Extended)**

1. Prior to the 150<sup>th</sup> sewer single family lot occupancy permit for the Entire Project, BROOKSIDE FARM PRD shall fund or dedicate and construct in accordance with VDOT standards the extension of Route 793 (Shepherdstown Road) as an improved two lane section from its existing terminus near Lake Brittle to the subject property's common boundary with the VHEDA property.
2. Prior to the issuance of the 300<sup>th</sup> single family lot occupancy permit for the Entire Project, BROOKSIDE FARM PRD shall acquire and dedicate, or cause to be dedicated the right-of-way for and shall construct to VDOT standards the two lanes of the Brookside Parkway from existing Route 676 (Riley Rd.) across the adjoining property to the southern border of the BROOKSIDE FARM PRD property as generally depicted on the Preliminary Subdivision Plat, dated March 1, 2002. Construction shall be to VDOT standards.
3. Prior to the issuance of the 450<sup>th</sup> single family lot occupancy permit for the Entire Project, BROOKSIDE FARM PRD shall construct to VDOT standards the two lane portion of the Brookside Parkway on its PRD-zoned property from the edge of its property as set forth in "2" above to Lake Drive extended.
4. Prior to the issuance of the 600<sup>th</sup> single family lot occupancy permit for the Entire Project, BROOKSIDE FARM PRD shall construct to VDOT standards the two lanes of the Brookside Parkway from Kennedy Rd. near the Vint Hill Traffic Circle to the intersection with Lake Drive extended. Construction shall be subject to the prior provision to Applicant or the County, of the right-of-way at no cost on Vint Hill EDA property by the Vint Hill EDA and further subject to the terms and

conditions of an Agreement between the Applicant and the Vint Hill EDA a copy of which is attached hereto and incorporated herein.

5. In conjunction with the above schedule BROOKSIDE FARM PRD and the Entire Project will construct and dedicate to VDOT or the County a pedestrian only system of sidewalks and trails. The location and type of such sidewalks and trails shall be as generally set forth on sheet 5, Pedestrian Access Plan of the CDP. The trails and sidewalks shall be constructed and dedicated in accord with applicable VDOT standards during the development of each phase of the build out of BROOKSIDE FARM PRD and the Entire Project.
6. BROOKSIDE FARM PRD shall design its internal road improvements between existing Route 676 and the Brookside/Vint Hill common border, substantially consistent with a future four-lane urban connector servicing the New Baltimore Service District, and identified as the Brookside Parkway on the Preliminary Subdivision Plat, dated January 30, 2002. The offsite Vint Hill portion of the Brookside Parkway is to be built from the common-border to Kennedy Road at the future Vint Hill Parkway Circle, pursuant to separate agreement with VHEDA. The exact location of such connector on the Entire Project may vary depending upon final design of such road. The Parkway shall be named “Brookside Parkway” from the Vint Hill Traffic Circle to the Parkway’s terminus at Route 676.
7. The term “construct” as set forth in these proffers means to build the applicable road to a level of completion where it is usable by and open to the public. Construction and Maintenance Bonds may be used to assure completion of final construction details for such roads prior to their acceptance by VDOT into the public system.

#### **IV. PROVISION OF OTHER PUBLIC FACILITIES**

- A. Within 40 days of the approvals set forth in the introductory paragraph or as soon thereafter as the County approves a land division establishing the middle school parcel, and said parcel can be conveyed free and clear of any encumbrances. BROOKSIDE FARM PRD and the Entire Project shall convey or cause to be conveyed approximately 40 acres of land located on the Brookside development to the County or the Fauquier County Public Schools (FCPS) as directed by the County.



The County and the Fauquier County Public Schools, shall accept this 40 acre donation or dedication as fulfilling the terms of the VHEDA re-zoning proffer of December 16, 1999, as set forth in paragraph II.k. of said proffers to convey a 30-acre school site to the County. This conveyance shall be further subject to the provisions set forth in paragraph B below.

- B. Applicant shall do the following with respect to the 40 acre site; subject to FCPS providing sub grade design and engineering work for the site at its expense:
1. Rough earthwork/cut-to-fill grading to within 6" of finish grade shall be provided by Applicant provided, however, that applicant shall not be required to expend more than \$500,000 for site preparation and provision of utilities, excluding sanitary sewer.
  2. Six months prior to the Middle Schools proposed opening date, the following utilities shall be brought to the site by Applicant, subject to utility regulations and availability to the Entire Project.
    - a. Water with 8" fire and 3" domestic
    - b. Sanitary Sewer
    - c. Natural Gas
    - d. Communications
  3. Storm water management detention ponds shall be sized and built by Applicant to accommodate all school site impervious areas according to applicable regulations and shall be located off of the school site where possible. If a pond is located on the property conveyed to the school, such pond may be conveyed to the HOA, which shall own, control and maintain the stormwater detention pond, which obligation shall be contained in the HOA covenants along with the FCPS's right to enforce the obligation as against the HOA.
  4. Utilities (as set forth in 2. above) and site improvements shall be made available according to FCPS middle school reasonable construction time

schedule. BROOKSIDE FARM PRD and the Entire Project shall construct a sanitary sewer main to serve the middle school site.

5. After one year from approval date of the final engineering plans, the site and utility work referenced above shall be bonded to the extent not already completed, with FCPS as a named beneficiary of said bond.

6. The County hereby agrees to expedite the approval process for the necessary construction plans and permits for preparation of the middle school site.

C. Neither BROOKSIDE FARM PRD nor the Entire Project shall reserve sewer taps available to them pursuant to a separate agreement with the WSA for the use of the school or other public uses. These taps or EMUs shall be acquired by the County or FCPS System.

**V. WATER & SEWER**

A. BROOKSIDE FARM PRD shall be served by public water and public sewer through agreement with Fauquier County Water and Sanitation Authority or other designated authority. Subject to the terms of the agreement, BROOKSIDE FARM PRD shall pay the sum of FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000.00) for public sewer service in accordance with an agreement with the WSA, and shall utilize the available sewer taps (EMUs) in accord with a separate agreement with the County, copies of which executed agreements ~~is~~ **are** attached hereto and incorporated herein.

B. In the event that conventional sewer and water are not available prior to the issuance of the first zoning permit or if the flow of sewer taps after the first 300 taps (EMU) as set forth in the agreement referenced above, is interrupted, then as is set forth in the Existing Waterfield Proffers the Applicant shall provide such sewer pursuant to Article 4, section 114, paragraph (5) of the Zoning Ordinance, by means of a fully-permitted land based wastewater or other approved disposal system as authorized by the Virginia Department of Environmental Quality and Virginia Department of Health, and shall provide water by means of a fully-permitted water supply and

distribution system. Any such system shall be operated by the WSA or by other qualified operator at the direction and approval of the Fauquier County Water and Sanitation Authority, under suitable agreements for the purpose.

- C. These Revised Proffers are specifically conditioned upon a revision by the County to the Comprehensive Plan, except as provided below, to reflect the Entire Project ~~of~~ as included and maintained in the Phase I sewer service area for the New Baltimore Service District, provided, however, those lots west of Riley Road shall be included in the Phase I sewer service area but may be served by either sewer or septic as determined by Applicant.

## **VI. ENVIRONMENTAL PROTECTION**

- A. Except for public utilities, roadways, recreation trails, recreation facilities, and related facilities, all wetlands and 100-year floodplains identified on the Concept Development Plan shall be preserved or such impacts shall be mitigated as permitted by flood plain and Federal wetlands regulations and with regard to flood plain use, by County Ordinance.
- B. Except for public utilities, roadways, recreation, trails, and related facilities, natural or improved vegetated areas as they exist in designated open space on BROOKSIDE FARM PRD not including areas of commercial, community or recreation uses, shall be left in a natural or improved natural state and incorporated into the BROOKSIDE FARM PRD HOA's open space system. Areas to be left in their natural or ~~un~~improved natural state shall expressly include the 50' buffer area under paragraph I.D. above.
- C. BROOKSIDE FARM PRD shall submit storm water management and erosion sediment control plans for its property or for specific watersheds as they are designed for development. The storm water management erosion and sediment control plans shall conform to the requirements of State and County Law and incorporate best management practices (BMPS) in final engineering plans.

## **VII. OPEN SPACE RESERVATION AND/OR DEDICATION**

- A. BROOKSIDE FARM PRD shall have a mix of active and passive recreational opportunities and facilities with each phase of development, including any such facilities as permitted under applicable provisions of the Zoning Ordinance by right, by special permit, or by special exception.
- B. All open space areas and recreational facilities, including Lake Ashby and Henry's Pond (all of which may be renamed), shall be conveyed to, controlled and maintained by the BROOKSIDE FARM PRD Homeowners Association (HOA). The HOA documents may provide for opportunities for Fauquier County residents and other organizations to utilize the recreational facilities at BROOKSIDE FARM PRD. The dam for Lake Ann shall be repaired by BROOKSIDE FARM PRD prior to the 150<sup>th</sup> single family occupancy permit to its historic level in a manner specified by qualified engineers. Lake Ann, including approximately 21 acres for the lake, dam and adjacent small park area as generally depicted on the Concept Development Plan, shall be donated to an appropriate public or nonprofit agency.
- C. The recreational facilities associated with the community center (i.e., meeting hall, swimming pool, multi-purpose court, baseball complex, etc.) shall be conveyed, maintained and controlled by the BROOKSIDE FARM PRD Homeowners Association (HOA). The HOA documents may provide for opportunities for Fauquier County residents and other organizations to utilize the recreational facilities at BROOKSIDE FARM PRD and for the addition of adjacent and nearby properties to the HOA development scheme.

#### **VIII. ARCHITECTURAL STANDARDS**

- A. BROOKSIDE FARM PRD shall incorporate all required and appropriate architectural design standards in the HOA documents for the residential and non-residential land bays. Said standards shall insure a mix of styles and quality of development. These standards are set forth in the HOA documents recorded in the Fauquier County Land Records on 1/29/02 at Deed Book 936 Page 1463 as may be amended from time to time pursuant to Article XIV of said covenants.
- B. The Architectural Renderings on sheet 6 and 7 of the CDP are meant to serve as general examples of the type of design and materials that will be used, but does not

limit the builders and does not give the County any voice in approving or disapproving types of design and/or material.

- C. Applicant shall incorporate the aforementioned architectural design standards in the HOA documents, subsequent site plans and subdivision plans, although, the actual set-backs, yard dimensions, building footprints and architectural design may vary. All references herein to the HOA documents shall be to the aforementioned recorded documents.

#### **IX. LANDSCAPE STANDARDS**

- A. BROOKSIDE FARM PRD shall incorporate all required landscape design and plant material standards in the HOA documents for the residential and non-residential land bays. Said standards shall insure that appropriate plant materials are used for the landscaping of streets and common areas.

#### **X. MISCELLANEOUS PROVISIONS**

- A. These proffers shall be binding on the BROOKSIDE FARM PRD and its successors and assigns. References to BROOKSIDE FARM PRD in these proffers shall be construed to include BROOKSIDE FARM PRD's successors and assigns.
- B. In the event that monetary contributions (not including monetary contributions which are contingent upon or related to the acquisition of off-site right-of-way for, or construction of roads or the school proffers) contained in this Revised Proffer Statement are paid to the Fauquier County Board of Supervisors following the date of approval of this rezoning, said contributions shall be in those amounts as stated herein. Contributions paid after the initial year from the date of approval of BROOKSIDE FARM PRD shall be adjusted in accordance with the Urban Consumer Price Index ("CPI-U") published by the United States Department of Labor, calculated from the CPI-U published most nearly to and following January 1<sup>st</sup> of the aforesaid initial year to the date the contributions are paid, subject to a cap of three percent (3%) per year, non-compounded.
- C. Reference to the establishment of paid Fire and Rescue Services in these proffers shall mean the date upon which the County establishes a County-owned and

staffed Fire and Rescue Station with first-due responsibilities which include the Entire Project.

- D. The Entire Project shall be designed to yield not more than 1 residential lot per gross acre. Furthermore, Applicant agrees that it shall be at the County's sole discretion to allow any apartments or cottages as a second residence on any lot in the Entire Project and does not claim any special rights because of its PRD zoning.

FAUQUIER LAKES LIMITED PARTNERSHIP,  
a Virginia Limited Partnership

By: FAUQUIER LAND COMPANY,  
a Delaware Corporation, GENERAL PARTNER

By: \_\_\_\_\_  
Edward L. Miller, Authorized Officer